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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,378	11/26/2003	Michael Charles Cirigliano	F6151(C)	8028

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EXAMINER

WEIER, ANTHONY J

ART UNIT	PAPER NUMBER
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1761

DATE MAILED: 06/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,378

Applicant(s)

CIRIGLIANO ET AL.

Examiner

Anthony Weier

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 18-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 18-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The original specification does not provide support for the limitation that the "key means does not pierce or perforate the filter pack".

Claim Rejections - 35 USC § 102

2. Claims 18, 21, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Lazaris et al.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 12/14/04) except for the following. Due to the added claims language that the key means does not pierce or perforate the filter pack, it should be further noted that Lazaris et al discloses two key means wherein one such key means does not perforate the filter pack. Specifically, the beverage cartridge is engaged by recessed receiving means of the beverage cartridge (Figure 6, 50c) with raised/grooved areas of the funnel brewing chamber (300) which essentially also acts as a key means and wherein such key means does not perforate the filter pack. It should be further noted that the cfilter pack rests on an elevation device within the brew funnel (e.g. element 86 or structure that houses spring 92; Figures 6 and 11).

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18, 19, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Gidge.

Gidge discloses a method for brewing coffee wherein a filter pack (e.g. 87) comprising ground coffee is placed in a brew funnel (e.g. 25) of a brewing apparatus wherein the brew funnel possess a key means (e.g. 24) which engages the filter pack wherein said key means does not pierce or perforate the filter pack (Figure 8).

4. Claims 18, 19, and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Fond et al.

Fond et al discloses a method for brewing coffee wherein a filter pack (e.g. 17) comprising coffee is placed in a brew funnel device (e.g. cartridge holder, 14) of a brewing apparatus wherein the brew funnel device possess projections (24) which act as key means (e.g. 24) and which engages the filter pack and wherein said key means does not pierce or perforate the filter pack (Figure 8). In addition, the key means are mounted on an elevation device (flow grill, 25) which elevates the cartridge within the brew funnel device and wherein said cartridge rests on said elevation device and projection/key means.

Claim Rejections - 35 USC § 103

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lazaris et al taken together with Schmed.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 12/14/04).

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over any one of Lazaris et al, Gidge, or Fond et al taken together with Cohen and either one of Halliday et al or Boyd et al.

The claims stand rejected for the reasons set forth in the last Office Action (mailed 12/14/04). Although Gidge and Fond et al were not applied in the previous Office Action, the amendment to the claims and new claims warranted the search and applying same. Moreover, it should be noted that the same differences and reasoning as described therein regarding Cohen, Halliday et al, and Boyd et al with respect to Lazaris et al would apply also with either one of Gidge and Fond et al.

Response to Arguments

Applicant's arguments filed 3/16/05 have been fully considered and are addressed in view of the withdrawal of the Schmed reference and the modified/new rejections as set forth above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony Weier whose telephone number is 571-272-1409. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Anthony Weier
Primary Examiner
Art Unit 1761

Anthony Weier
May 27, 2005



3/27/05